

INFORMATION NOTE ON MATTERS BEFORE THE LEGAL AND TECHNICAL COMMISSION AT ITS MEETINGS DURING THE SEVENTEENTH SESSION OF THE INTERNATIONAL SEABED AUTHORITY

1. This information is intended to assist members of the Legal and Technical Commission in their preparations for the forthcoming meetings of the Commission during the seventeenth session of the International Seabed Authority. The note serves as a guide to the items on the provisional agenda of the Commission (ISBA/17/LTC/L.1) and highlights the issues on which the Commission is required to take action.
2. The seventeenth session of the Authority will take place at Kingston, Jamaica, from 11 to 22 July 2011. As agreed at the sixteenth session, the Legal and Technical Commission will commence its meetings one week prior to the main session of the Authority, from 4 to 8 July 2011, in order to enable it to complete its agenda, which is extensive. In total, fifteen meetings of the Commission have been scheduled during this time, during which simultaneous interpretation into the six official languages of the Authority will be provided.
3. The Commission will be required to elect its Chairman and Vice-Chairman for the seventeenth session. Members of the Commission are reminded that this will be the last session of the Commission as presently constituted and that an election will be held for the next five-year term of office of the Commission on 21 July 2011.

REPORTS OF CONTRACTORS

4. The Commission will review and consider the annual reports of the eight exploration contractors submitted pursuant to the regulations for prospecting and exploration for polymetallic nodules in the Area. The annual reports are due to be submitted by 31 March 2011. The Secretariat will then conduct a preliminary technical review of the reports and prepare a summary document to assist the Commission in its deliberations. Members of the Commission are reminded that the purpose of the review of annual reports by the Commission is to advise the Secretary-General on each contractor's compliance with its reporting obligations under the contract (Regulations, Annex 4, Section 10), the main trends emerging from exploration work in general and on any issues relating to the regulatory regime that may need attention by the Authority.
5. In previous sessions, the Commission has considered the annual reports through a process of breaking into technical working groups. The coordinator of each technical working group would then report back to the full Commission. A report to the Secretary-General is then compiled, based on the summary document prepared by the Secretariat, but including the comments and recommendations of the Commission. It is recommended that this practice be continued, but the Commission should be aware that, in view of the large number of matters on its agenda, less time will be available this year to consider the annual reports of contractors. If necessary, additional time can be made available out of normal meeting hours for the technical working groups to review the annual reports.

6. At its last session, in 2010, the Commission had requested the secretariat to prepare for its consideration at the seventeenth session a detailed analysis of the reported expenditure by contractors under their contracts for exploration. Such an analysis has been prepared, with the assistance of a consultant from the Imperial College School of Mines, United Kingdom. The result of this analysis will be made available to the Commission for its consideration. Among the key recommendations of the analysis are that financial appraisal and economic evaluation should be a component of future reporting by contractors.

7. For most contractors, 2010 also marks the end of the second five-year phase of the fifteen-year plan of work for exploration under their contracts with the Authority. In accordance with the Regulations on Prospecting and Exploration for Polymetallic Nodules in the Area, the contractor and the Secretary-General shall jointly undertake a periodic review of the implementation of the plan of work at intervals of five years. In the light of the review, the contractor shall indicate its programme of activities for the next five-year period, making such adjustments to its programme of activities as are necessary. Pursuant to the Regulations, the Secretary-General wrote to all those contractors affected by the relevant provisions in November 2010 requesting them to submit their proposed programme of activities for the final five-year period under the contract as soon as possible and at the latest by 31 March 2011. It is hoped that the periodic reviews will be completed prior to the seventeenth session. In any event, a report on the status of the reviews will be made to the Commission.

8. Also in connection with the second five-year review and the consideration of the annual reports, the Commission at its last meeting in 2010 had requested the secretariat to prepare for the seventeenth session a detailed analysis of the environmental work actually carried out by each contractor. Such a report had been requested in light of concerns expressed by members of the Commission over the slow pace of exploration work and the apparent lack of raw data being provided by contractors despite numerous requests for such data from both the Commission and the Secretary-General. A preliminary report on the status of environmental work was presented at the 2010 meeting. Since then, the secretariat has prepared a more detailed study, as requested, and this will be presented to the Commission in 2011.

APPLICATIONS FOR APPROVAL OF PLANS OF WORK FOR EXPLORATION

9. At the time the present information note was compiled, four applications for approval of plans of work for exploration in the Area were pending consideration by the Commission and the Council. These are as follows:

- Application for a plan of work for exploration for polymetallic nodules in a reserved area submitted by **Nauru Ocean Resources Inc.** on 10 April 2008.
- Application for a plan of work for exploration for polymetallic nodules in a reserved area submitted by **Tonga Ocean Mining Ltd.** on 10 April 2008.
- Application for a plan of work for exploration for polymetallic sulphides submitted by **China Ocean Minerals Resources Research and Development Association (COMRA)** on 7 May 2010.

- Application for a plan of work for exploration for polymetallic sulphides submitted by the **Ministry of Natural Resources and the Environment of the Russian Federation** on 24 December 2010.

10. Pursuant to the applicable Regulations, these applications must be examined by the Commission, which must then submit its report and recommendations on each application to the Council.

11. The applications by Nauru Ocean Resources Inc. and Tonga Ocean Mining Ltd. will each need to be considered by the Commission in accordance with the procedure set out in the Regulations on Prospecting and Exploration for Polymetallic Nodules in the Area (ISBA/6/A/18). The applications by COMRA and the Russian Federation will each need to be considered by the Commission in accordance with the procedure set out in the Regulations on Prospecting and Exploration for Polymetallic Sulphides in the Area (ISBA/16/A/12/Rev.1).

12. In particular, the Commission is required, under regulation 21(3) of the Regulations on Polymetallic Nodules and Regulation 23(3) of the Regulations on Polymetallic Sulphides, to determine in each case if the applicant:

- (a) has complied with the provisions of the Regulations;
- (b) has given the undertakings and assurances specified in regulation 14;
- (c) possesses the financial and technical capability to carry out the proposed plan of work for exploration; and
- (d) has satisfactorily discharged its obligations in relation to any previous contract with the Authority.

The Commission is also required to determine whether the proposed plan of work for exploration will provide for effective protection of human health and safety, effective protection and preservation of the marine environment, and ensure that installations are not established where interference may be caused to the use of recognized sea lanes essential to international navigation or in areas of intense fishing activity.

13. Subject to the provisions of the Regulations, the Commission shall make a recommendation to the Council relating to the proposed plan of work for exploration.

14. The Secretary-General has written to all applicants, and their sponsoring States, inviting them to inform him whether they intend to make an oral or written presentation to the Commission. In the case of the applications by Nauru Ocean Resources Inc. and Tonga Ocean Mining Ltd., which were submitted in 2008, the Secretary-General has also invited the applicants to submit any new or updated information relevant to their applications. The timing of the Commission's consideration of the applications will be adjusted in light of the responses to these invitations. It is recommended in any

event that the Commission takes up the matter of the applications for approval of plans of work for exploration as soon as possible after the opening of its meeting.

ENVIRONMENTAL IMPLICATIONS OF ACTIVITIES IN THE AREA

15. In November 2010, as recommended by the Commission at its previous meetings, the Authority convened an international workshop to review further a proposal for the establishment of a network of areas of particular environmental interest in the Clarion-Clipperton Fracture Zone (CCZ). One of the key outcomes of that workshop was a draft Environmental Management Plan (EMP) for the CCZ. The draft EMP (contained in ISBA/17/LTC/WP.1) addresses all the issues that need to be considered for environmental management on a regional scale in the CCZ. It includes a summary of the legal regime associated with the management plan, the locations of proposed areas of environmental interest (based on the modified areas identified by the Commission in 2008) and associated suggestions regarding the management and review process for these areas. The draft EMP, along with supporting documentation from the workshop, will be submitted to the Commission for its consideration and the formulation of appropriate recommendations for implementation.

16. Since the last session, the Secretariat has been contacted by the InterRidge Steering Committee on behalf of the InterRidge scientific community with respect to a number of concerns relating to the regulatory regime for prospecting and exploration for polymetallic sulphides and the identification of active hydrothermal vent sites that may require protection when considering licence applications for exploration for polymetallic sulphides. It is proposed to circulate these communications to the Commission for their consideration.

OTHER MATTERS

17. Under item 9 on the provisional agenda, the Commission will be invited to take note of the technical methodology adopted by the Authority for the submission of charts and lists of geographical coordinates by applicants for plans of work for exploration and contractors.

18. Attached with this note, please find the provisional agenda for the Commission together with the indicative programme of work for the other organs of the Authority during the seventeenth session. Please note that all documentation for the Commission's meetings, except confidential data provided by contractors and applicants, will be provided to members of the Commission by e-mail as it becomes available. Commission members are requested to ensure that the Secretariat is aware of their correct e-mail address. Members of the Commission are also kindly requested to acknowledge receipt of this communication by return e-mail to echen@isa.org.jm.

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